

UNITED STATES COURT OF APPEALS August 13, 2010

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

CHARLES D. GREEN,

Plaintiff - Appellant,

v.

CHARLES D. LAWHORN, CCS
Regional Medical Director; CORRECT
CARE SOLUTIONS, KDOC Medical
Provider; JOHN M. SATCHELL, Doctor,
CCS Employee,

Defendants - Appellees,

ROGER WERHOLTZ, Secretary of
Corrections; KATHLEEN SEBELIUS,
Governor of Kansas; CHARLES
SIMMONS, KDOC Deputy Secretary of
Corrections; JAY SHELTON, Warden,
Norton Correctional Facility; JOEL
HRABE, Deputy Warden, Norton
Correctional Facility; (FNU)
THIBEDEAU, Unit Team Manager,
Norton Correctional Facility;
ELIZABETH RICE, Corrections
Manager, Kansas Department of
Corrections,

Defendants.

No. 10-3131
(D.C. No. 5:09-CV-03055-SAC)
(D. Kan.)

ORDER

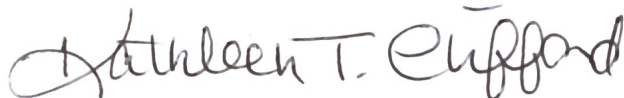
Before **BRISCOE**, Chief Circuit Judge, **MURPHY**, and **GORSUCH**, Circuit Judges.

This appeal is before the court based on a show cause order questioning appellate jurisdiction and directing the parties to obtain a district court order either containing a final judgment under Fed. R. Civ. P. 54(b) as to the March 30, 2010 Order appealed by Plaintiff Charles Green or explicitly resolving Plaintiff's Eighth Amendment claim against Defendants Charles D. Lawhorn, John Satchell, and Correct Care Solutions. *See Stockman's Water Company, LLC v. Vaca Partners, L.P.*, 425 F.3d 1263, 1265 (10th Cir. 2005); *Lewis v. B. F. Goodrich Co.*, 850 F.2d 641, 645-46 (10th Cir. 1988). In a June 4, 2010 Order, the district court denied certification under 28 U.S.C. § 1292(b).

This court lacks jurisdiction. The parties did not move in the district court for a Rule 54(b) certification and did not file anything in this court explaining their failure to do so. Plaintiff's remaining Eighth Amendment claim has not been resolved. Consequently, the March 30, 2010 Order appealed by Plaintiff Green is interlocutory and not immediately appealable under 28 U.S.C. § 1291 or under any recognized exception to the final judgment rule.

The appeal is **DISMISSED** for lack of appellate jurisdiction. All pending motions are **DENIED**.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, appearing to read "Kathleen T. Clifford". The signature is fluid and cursive, with the first name "Kathleen" being more prominent and the last name "Clifford" following in a similar style.

Kathleen T. Clifford
Attorney - Deputy Clerk